

**From:** Robin Colgrove  
**To:** Microsoft ATR  
**Date:** 1/17/02 1:01pm  
**Subject:** Microsoft Settlement

I am sure you are getting a lot of mail, so I will be brief.

I am writing to oppose in the strongest terms the current settlement proposal. Its remedies are incredibly weak and depend entirely upon the goodwill of Microsoft for implementation. Microsoft has already made it clear from its flouting of previous settlements that it has no intention of complying voluntarily with restrictions on its behavior. Even its public statements have made it clear that they have not even accepted their guilt in this matter, despite being convicted, having -some- of the counts upheld unanimously on appeal, and having the convictions be allowed to stand by the Supreme Court. I think it is outrageous that a company found guilty of multi-billion dollar crimes should be allowed to negotiate about whether and in what fashion it should be penalized. This can only increase the perception that the law exists to hammer the poor and that sufficient wealth can buy one a free pass to violate the laws of one's choosing.

It is sometimes said that Microsoft's actions have only helped consumers and that the legal cases against them come only from their competitors. This is grossly untrue. I have been using computers for over twenty years and use on a daily basis computers of all types including Windows, UNIX, and Macintosh machines. Microsoft's practices of monopoly lock-in hurt me every day. Over and over, whether in access to hospital clinical data, NIH grant applications, presentation results, and many other types of data, I find I am forced to use Microsoft software, even though I don't like it and don't want it, not because it is better, but simply because it has an illegally-maintained monopoly. It has taken me enormous effort and resources over the years to keep my laboratory running in the face of the constant pressure to conform to the Microsoft standard. Since this monopoly has been found to be maintained and extended illegally, this represents substantial harm to me and to millions of people like me.

There are many examples of great harm caused by the Microsoft monopoly (the squashing of innovation, the forced cycle of "upgrades", the loss of consumer choice, etc.), but I want to comment on one area where I have special expertise: viruses. I am a virologist and have studied both real and computer viruses for many years. In the mid-90's, many of us warned that the Microsoft practice of embedding automatically executable programming scripts into its programs (first Excel, then Word, then Outlook/Exchange, and now XP and .Net) posed a serious security risk to users in that they could be used to write software viruses. Again and again this has proved all-too true with one virus after another and

billions of dollars in damage done. This is not the place for a technical discussion, but though no system is perfectly safe, these viruses are far, far easier to create and spread using Microsoft software than with UNIX/linux or macintosh alternatives. Virtually all the significant virus damage in the past decade has come from easily correctable flaws in the way Microsoft makes its software. Microsoft does not correct them because the intertwined web of embedded auto-executing code is an important mode by which they achieve customer lock-in and monopoly maintenance/extension. No one would put up with this level of customer abuse except that people and institutions feel they have no reasonable choice but to use Microsoft software. No company could have gotten away with this except one with an illegal monopoly. For this reason alone, Microsoft deserves large and serious penalties.

Many good ideas have been advanced for improving the proposed settlements. I want to emphasize two. First, one of Microsoft's key tools in illegal monopoly maintenance has been to use secret file formats and undocumented "API's" connecting to other programs, making it very hard for competitors to write compatible software. As part of any reasonable settlement, Microsoft must be forced to make all its file formats and API's public at the time the software goes on sale. Microsoft complains that this would strip them of intellectual property but this very tellingly misses the point that they have been found guilty and have earned large penalties for themselves. Second, there must be rapid and serious enforcement of any settlement provisions. The court record shows very clearly how Microsoft has worked to subvert earlier agreements and in so doing they have lost the chance to have a settlement based upon good will.

Microsoft is at present a company with an adolescent character, arrogant and self-absorbed, unconcerned with the harm that they cause others. They will not grow up by choice. Like previous monopolists (such as IBM) or would-be monopolists (like Intel), they need strong Justice Department pressure and the real threat of further serious penalties in order to mature as these other companies have done. As others will point out, Microsoft is a product of vigorous anti-trust action (against IBM, who otherwise would have absorbed them in the '80s), and is a champion of government intervention in the market (in intellectual property protection). It is typically juvenile of them to claim exemption from anti-trust law now, and is exactly why the Justice Department needs a much stronger and more strictly enforced plan for any settlement that will truly be in the public interest.

Sincerely,

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